



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Physicians Plus Insurance Corporation
22 East Mifflin Street Suite 200
Madison WI 53703

dated June 6-19, 2002, and served upon the company on November 20, 2002, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 9th day of May, 2003.

Jorge Gomez
Commissioner of Insurance

STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

PHYSICIANS PLUS INSURANCE CORPORATION
MADISON, WI

JUNE 3-19, 2002

TABLE OF CONTENTS

I. INTRODUCTION.....	3
II. PURPOSE AND SCOPE.....	5
III. SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS.....	6
IV. CURRENT EXAMINATION FINDINGS.....	9
V. CONCLUSION.....	32
VI. SUMMARY OF RECOMMENDATIONS.....	33
VII. ACKNOWLEDGEMENT.....	37



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August 9, 2002

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Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a compliance market conduct examination was made in June 2002 of:

Physicians Plus Insurance Corporation
Madison, WI

and the following report is respectfully submitted.

I. INTRODUCTION

Physicians Plus Insurance Corporation (the company) can be described as a for-profit network model health maintenance organization (HMO) insurer. A network model HMO provides care to enrollees through sponsor clinics and through contracts with clinics and otherwise independent physicians operating out of their separate offices. The company was incorporated on August 6, 1986, and commenced business on October 3, 1986. It is licensed under ch. 611, Wis. Stat., as a stock insurance corporation.

In May 1996 EMPLOYERS INSURANCE OF Wausau A Mutual Company (Employers Insurance of Wausau) purchased a 33.33% interest in the company. Ownership was then divided equally between Meriter Health Services, Physicians Plus Medical Group, and Employers Insurance of Wausau. The company entered into a ten-year administrative services agreement with Wausau that required a conversion of the company's computer database. Employers Insurance of Wausau also became the insurer for the company's point-of-service insurance policy.

In December 2000, Employers Insurance of Wausau sold its ownership in the company to Meriter Health Services as part of its effort to exit the health insurance market. In doing so, Employers Insurance of Wausau terminated all contractual relationships with the company. The company is now owned two-thirds by Meriter Health Services and one-third by Physicians Plus Investment Group. Meriter Health Services created a new health insurance subsidiary, Meriter Health Insurance Company, to insure the indemnity portion of the company's point-of-service product. In addition, the company contracted with Perot Systems in Dallas, TX to perform its administrative services, and transferred its existing computer database from Employers Insurance of Wausau to Perot Systems.

The following table summarizes the premium written and incurred losses in Wisconsin for 1999 and 2000 broken down by line of business.

Line Of Business	2000			
	Direct Premiums Earned	% of Total Premium	Direct Losses Incurred	Pure Loss Ratio
Comprehensive Accident & Health	\$225,624,456	99%	\$213,837,877	95%
Medicare Supplement	\$ 1,894,024	1%	\$ 1,801,232	95%
Total	\$227,518,480	100%	\$215,639,109	95%

Line Of Business	1999			
	Direct Premiums Earned	% of Total Premium	Direct Losses Incurred	Pure Loss Ratio
Comprehensive Accident & Health	\$200,574,068	99%	\$189,403,433	94%
Medicare Supplement	\$ 1,775,389	1%	\$ 1,291,189	73%
Total	\$202,349,457	100%	\$190,694,622	94%

Complaints

The Office of the Commissioner Of Insurance (OCI) received 274 complaints against the company between January 1, 2000 and December 31, 2001. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' The company ranked 24th on OCI's 2000 group accident and health insurance complaint summary, with a complaint ratio of .07 compared to the average of .05 complaints/\$100,000 of written premium for all group accident and health business in the state. The company was not ranked on the group complaint summary for 2001. However, it did rank 4th on the 2001 individual accident and health insurance complaint summary, with a complaint ratio of .30 compared to the average of .10 complaints/\$100,000 of written premium for all individual accident and health business in the state. The company was not ranked on the individual complaint summary for 2000. The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

	2001					
Coverage Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
HMO - Group	119	9	1	74	32	3
HMO - Individual	0	0	0	0	0	0
Medicare Supplement	9	1	0	6	2	0
Total	128	10	1	80	34	3

	2000					
Coverage Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
HMO - Group	143	9	1	78	52	3
HMO - Individual	1	1	0	0	0	0
Medicare Supplement	2	0	0	1	1	0
Total	146	10	1	79	53	3

Grievances

The company submitted annual grievance experience reports to OCI for 1999 and 2000 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as "any dissatisfaction with the provision of services or claims practices of an insurer offering a health

benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, and insured." The company reported it received 1024 grievances in 2000 and 770 grievances in 2001. Effective 2001, the company was required to report grievances based on the categories listed below.

Grievance Categories	2001
Access to Care	1
Billing/Claim Processing	61
Continuity of Care	0
Drug & Drug Formulary	18
Emergency Services	121
Enrollment/Eligibility Requirements	10
Experimental Treatment	1
Prior Authorization	113
Not Covered Benefit	154
Not Medically Necessary	28
Other	0
Plan Administration	43
Request for Referral	219
Quality of Care	1
Total	770

II. PURPOSE AND SCOPE

The examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules with respect to the areas of noncompliance identified in the prior examination report, adopted September 4, 1998, and the managed care desk audit examination report, adopted December 13, 1999. The examination focused on the period from January 1, 2000 through December 31, 2001. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination included, but was not limited to, a review of compliance with the prior examination recommendations and the managed care desk audit recommendations, claims, company operations and management, electronic commerce, grievances, large employer marketing, managed care, marketing, sales, and advertising, policyholder service and complaints, producer licensing, provider agreements, small employer marketing, and terminations, cancellations, and nonrenewals.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of the company, as adopted September 4, 1998, contained 14 recommendations. The prior managed care desk audit report, adopted December 13, 1999, contained 3 recommendations. Following are the recommendations contained in these reports and the examiner's finding regarding the company's compliance with each recommendation.

1. **Company Operations/Management** -- It is recommended PPIC redraft its provider agreements at the time of renewal to include language requiring providers to identify complaints and grievances in a timely manner and forward these complaints and grievances in a timely manner to the health maintenance organization for recording and resolution as required by s. Ins 3.50 (10) (g) 2, Wis. Adm. Code.

Action - Noncompliance

2. **Marketing, Sales, & Advertising** -- It is recommended PPIC include with each advertisement in its advertising file, a notation indicating the manner and extent of distribution of the advertisement as required by s. Ins 3.27 (28), Wis. Adm. Code.

Action - Noncompliance

3. **Producer Licensing** -- It is recommended PPIC develop and institute procedures and submit these procedures to OCI within six months of the adoption of the examination report to ensure PPIC will not accept business from agents not listed with the company nor pay commissions to these agents as prohibited by s. Ins 6.57 (5), Wis. Adm. Code.

Action - Noncompliance

4. **Producer Licensing** -- It is recommended PPIC institute procedures to ensure that it provides OCI with notice of an agent's termination of appointment prior to or within 15 calendar days of termination date as required by s. Ins 6.57 (2), Wis. Adm. Code.

Action - Compliance

5. **Producer Licensing** -- It is recommended PPIC document that it submitted agent listings to OCI for those agents identified as not being listed, and document that it submitted to OCI notice of termination of appointment for those agents identified as not active with PPIC as required by s. Ins 6.57 (1) and (2), Wis. Adm. Code, and s. 628.11, Wis. Stat.

Action - Compliance

6. **Producer Licensing** -- It is recommended PPIC justify its master listing of agents against the agent renewal billing received from OCI on an annual basis in order to comply with s. Ins 6.57 (3), Wis. Adm. Code.

Action - Compliance

7. **Producer Licensing** -- It is recommended PPIC include in its agent/agency files proof of agent intermediary licensure in order to document compliance with s. 628.03, Wis. Stat.

Action - Compliance

8. **Producer Licensing** -- It is recommended PPIC maintain documentation in its agent files that its terminated agents received written notice of termination including a request for return of all indicia of agency as required by s. Ins 6.57 (2), Wis. Adm. Code.

Action - Noncompliance

9. **Grievances** -- It is recommended PPIC monitor its procedures to ensure that all grievances are resolved within 30 calendar days and if PPIC is unable to resolve the grievance within 30 calendar days, it notifies the grievant in writing, that it has not resolved the grievance, when resolution is expected, and the reason the additional time is needed as required by s. Ins 3.50 (10) (c), Wis. Adm. Code.

Action - Noncompliance

10. **Grievances** -- It is recommended PPIC review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 609.15 (1) (c), Wis. Stat., s. Ins 3.50 (10) (g) 3, Wis. Adm. Code, and s. 628.34, Wis. Stat.

Action - Noncompliance

11. **Claims** -- It is recommended PPIC pay simple interest at the rate of 12% per year on all claims not paid within 30 days after it is furnished written notice of the fact of covered loss and of the amount of the loss as required by s. 628.46, Wis. Stat.

Action - Noncompliance

12. **Company Operations/Management** -- It is recommended PPIC institute procedures to ensure that records of company operations including underwriting information are maintained and made available to OCI at the time of examination as required by s. Ins 6.80 (4) (b), Wis. Adm. Code.

Action - Noncompliance

13. **Small Employer** -- It is recommended PPIC institute procedures to ensure that it obtains copies of documentation such as the state unemployment or worker's compensation quarterly reporting forms, to verify that it has a complete list of all eligible employees and dependents of the small employer as required by s. Ins 8.65 (1), Wis. Adm. Code.

Action - Compliance

14. **Systems Conversion** -- It is recommended PPIC file a report with OCI within three months of the adoption of the examination report on the final stage of its systems conversion.

Action - Compliance

Managed Care Desk Audit Recommendations

1. It is recommended that PPIC document that it has submitted to OCI for approval, language in its certificates of coverage and policies regarding its referral procedures, including standing referrals, as required by s. 609.22 (4) (a) 3, Wis. Stat.

Action - Compliance

2. It is recommended that PPIC develop a process for providing information on its standing referral procedure, including the criteria and conditions that must be met, upon request to an enrollee or prospective enrollee, as required by s. 609.22 (4) (a) 1, Wis. Stat.

Action - Compliance

3. It is recommended that PPIC submit to OCI for approval, language regarding an enrollee's right to continuity of care in order to comply with s. 609.24 (1), Wis. Stat.

Action - Compliance

IV. CURRENT EXAMINATION FINDINGS

Effective March 1, 2000, the market conduct requirements previously contained in s. Ins 3.50, Wis. Adm. Code, were incorporated into subchapter III of ch. 9, Wis. Adm. Code. Effective December 1, 2001, s. Ins 9.33, Wis. Adm. Code, was repealed and recreated as subchapter II of ch. 18, titled grievance procedures. This report references cites in the administrative code as currently drafted.

Company Operations and Management

The examiners reviewed the company's response to the company operations and management interrogatory, provider agreements, and executive committee and board of directors meeting minutes. The examiners also conducted an interview with the employee responsible for the 2001 transfer of the company's administrative services system from Employers Insurance of Wausau to Perot Systems in Dallas, TX.

The examiners reviewed a sample of 40 executed provider and administrative agreements. The examiners found that 4 of the administrative agreements did not include language that required the providers to forward all complaints and grievances received to the company in a timely manner. The examiners found that, for the period of review, the company did not document that it had revised the language in its administrative agreements to correspond with s. Ins 3.50, Wis. Adm. Code, nor the language incorporated in March 1, 2000 as subchapter III of ch. 9, Wis. Adm. Code.

The examiners found that 39 of the 40 provider and administrative agreements reviewed did not include provisions requiring providers to promptly respond to complaints and grievances. The examiners also found that the company was not in compliance with the prior examination recommendation or the requirements of s. Ins 18.03, Wis. Adm. Code that became effective December 1, 2001. Section Ins 18.03 (2) (c) 1, Wis. Adm. Code, provides that an insurer offering a managed care plan shall include in each contract between it and its providers, provider networks, and within each agreement governing the administration of provider services,

a provision that requires the contracting entity to promptly respond to complaints and grievances filed with the insurer to facilitate resolution.

1. **Recommendation:** It is recommended that the company include in its provider agreements language that requires providers to forward all correspondence regarding any complaint or member dispute to the company in a timely manner, as required by s. Ins 18.03 (2) (c) 1, Wis. Adm. Code.
2. **Recommendation:** It is recommended that the company revise its provider agreement template, and amend its existing provider agreements to include language requiring providers to promptly respond to grievances and complaints filed with the insurer to facilitate resolution, as required by s. Ins 18.03 (2) (c) 1, Wis. Adm. Code.

Claims

The examiners reviewed the company's interrogatory response, claims administration processes and procedures, administrative services agreements with Chirotech and Perot Systems, procedure for paying interest on delayed claim payments, explanation of benefit (EOB) forms, and claim adjustment (ANSI) codes. The company's administrative agreement with Perot Systems provided for the processing of claims for all provider and facility claims, except chiropractic claims. The company had agreements with hospital providers whereby claims were electronically submitted for processing. Claims received in paper format were imaged into the claim system prior to processing. Claims for chiropractic services were sent directly by chiropractors to Chirotech.

The examiners reviewed a random sample of 100 denied claims, 100 paid claims, 100 denied chiropractic claims, and 50 paid chiropractic claims. The examiners found no exceptions regarding the claims processed by Perot Systems.

The examiners' review of the chiropractic claim samples processed by Chirotech found 1 denied chiropractic claim file that was not provided for review. Section Ins 6.80 (4) (b), Wis. Adm. Code, requires that the company maintain all records reasonably related to insurance operations for a period of 3 years.

The examiners found that 32 of the 50 paid chiropractic claims reviewed were not processed within 30 days of receipt, and that no interest was paid. The company indicated that it calculated claim payment based on the date Chirotech indicated it had received a claim, not the date the claim was received by the company or any of its contracted entities. Section 628.46, Wis. Stat., provides that a claim shall be overdue if not paid within 30 days after the company is furnished written proof of loss, and that all overdue payments shall bear simple interest at the rate of 12% per year.

3. **Recommendation:** It is again recommended that the company pay interest on all claims not resolved within 30 days of receipt by the company or any of its contracted entities, as required by s. 628.46, Wis. Stat.

4. **Recommendation:** It is recommended that the company institute a procedure to ensure that contracted entities have in place a process for identifying delayed claims and calculating interest due on the delayed claims in order to comply with s. 628.46, Wis. Stat.

The examiners found that 84 of the company's denied chiropractic claim files did not contain a copy of a denial letter that was sent to the patient, or to the treating chiropractor. The examiners also found that 13 of the company's denied chiropractic claim files contained a copy of a denial letter that was sent to the patient and the treating chiropractor, but the letter did not meet the requirements outlined in s. 632.875 (2), Wis. Stat. Section 632.875 (2), Wis. Stat., provides that if, on the basis of an independent evaluation, the company restricts or terminates a patient's coverage for the treatment of a condition or complaint by a treating chiropractor acting within the scope of his or her license and the restriction or termination of coverage results in the patient becoming liable for payment for his or her own treatment, the company shall provide to the patient and to the treating chiropractor a written statement that contains all information specified therein. The examiners found that 83 of the company's denied chiropractic claim files did not contain documentation indicating that the denial of benefits was made based on the result of a review by an independent chiropractic consultant. Section 632.87 (3) (b), Wis. Stat., provides that the company shall not restrict or terminate coverage for the treatment of a condition or complaint by a licensed chiropractor within the scope of the chiropractor's professional license on the basis of other than an examination or evaluation by or a recommendation of a licensed chiropractor.

5. **Recommendation:** It is recommended that if, on the basis of an independent evaluation, the company denies a chiropractic claim, it send a denial letter to the patient and the treating chiropractor meeting the requirements outlined in s. 632.875 (2), Wis. Stat.
6. **Recommendation:** It is recommended that the company maintain documentation that it does not restrict or terminate coverage for chiropractic treatment on the basis of other than the recommendation of an independent chiropractor, as required by s. 632.87 (3) (b), Wis. Stat.

The examiners found that 50 of the company's denied chiropractic claim files did not include documentation that provided the received date, denial reason, or denied date. Section Ins 6.80 (4) (b), Wis. Adm. Code, requires that the company maintain all records reasonably related to insurance operations for a period of 3 years.

7. **Recommendation:** It is recommended that the company maintain all records reasonably related to its claims function for a period of 3 years, including documentation for each claim received indicating the received date, denial reason, and denial date, as required by s. Ins 6.80 (4) (b), Wis. Adm. Code.

The examiners found that 30 of the company's chiropractic claim files indicated a received date later than the received date stamp on the claim form. The company indicated that the claims were first sent to Chirotech for review, then forwarded to the company for processing. It further indicated that the received date in the company's database indicated the date the claim was received at the company, not the date the claims were originally received at Chirotech. Section 628.46, Wis. Stat., provides that a claim shall be overdue if not paid within 30 days after the company is furnished written proof of loss, and that all overdue payments shall bear simple interest at the rate of 12% per year.

8. **Recommendation:** It is recommended that the company record as the received date in its claims database the date that a claim is first received by the company or any of its contracted entities as documented by a date stamp to ensure compliance with s. 628.46, Wis. Stat.

The examiners found that none of the files in the company's denied chiropractic claim sample or paid chiropractic claim sample for which member responsibility remained included documentation indicating that it sent an explanation of benefits (EOB) or remittance advice (RA). The company initially indicated that Chirotech did not send EOBs or RAs for denied chiropractic claims. The company later indicated that RAs were sent on denied chiropractic claims, but were not maintained on individual claims, and that EOBs were produced when there was member responsibility for the claim. However, the examiners did not find documentation to verify that this was the case. Section Ins 3.651 (3), Wis. Adm. Code provides

that a remittance advice meeting the specified requirements be sent to health care providers. Section Ins 3.651 (4), Wis. Adm. Code provides that an EOB meeting the specified requirements be sent to insureds. Section Ins 6.80, Wis. Adm. Code requires that the company maintain all records reasonably related to insurance operations for a period of 3 years.

9. **Recommendation:** It is recommended that the company send EOBs and RAs on all claims for which the patient is responsible for a portion of the payment, and maintain records of the EOBs and RAs for each claim, as required by ss. Ins 3.651 (3) and (4), and Ins 6.80, Wis. Adm. Code.

Electronic Commerce

The examiners reviewed the company's website, response to the electronic commerce interrogatory, and agency agreements. The examiners found that the company's website was primarily informational. It was divided into sections for members, employers, providers, agents, and job seekers. In addition to providing information on the company's plan offerings and general information on plan features, the website provided links to general health and wellness information. The website contained an online provider directory, an online primary care physician change request form, and a link to the company's drug formulary. It also contained a link to the UW Health online prescription ordering and delivery service.

The examiners conducted a search of the company's website for information on the 17 participating providers who had terminated their relationship with the company in the 6 months prior to the examination. The examiners found that none of the terminated providers were listed as participating providers on the company's website.

The company's agent agreements stated that agents cannot distribute, use, publish, or broadcast any media unless specifically authorized by the company to do so. The examiners review of the company's response to the electronic commerce interrogatory found that the company did not monitor agent websites to confirm that agents were in compliance with the agent agreements.

10. **Recommendation:** It is recommended that the company develop and implement a procedure for monitoring agent websites to ensure that all advertisements are included in the company's advertising file, as required by s. Ins 3.27, Wis. Adm. Code.

Grievances

The examiners reviewed the company's response to the grievance interrogatory, grievance procedures, grievance committee meeting minutes, and annual grievance experience reports for 2000 and 2001.

The examiners reviewed a random sample of 50 grievance files. The examiners found that 15 of the company's grievance files were not resolved within 30 days, and did not include an extension letter. Section Ins 18.03 (6) (b), Wis. Adm. Code, provides that, if the company is unable to resolve a grievance within 30 calendar days of receipt, the time period may be extended an additional 30 calendar days if the company provides a written notification to the insured and the insured's authorized representative, if applicable, indicating that it has not resolved the grievance, when resolution may be expected, and the reason additional time is needed.

The examiners found that 1 of the company's grievance files did not include documentation that an acknowledgement letter was sent within 10 days of receipt of the grievance. Section Ins 18.03 (4), Wis. Adm. Code, requires that all grievances be acknowledged within 5 days. The company indicated that it recorded all grievances in an electronic database that was used for reporting purposes, and that its database was audited quarterly. The company further indicated that the annual grievance experience reports that it submitted electronically to OCI in 2000 and 2001 were manually audited prior to submission. The examiners found that the 2001 grievance experience report the company submitted to OCI contained an inaccurate grievance summary. The total number of benefit denial grievances and plan administration grievances reported by the company did not equal the totals provided on the summary page. The company maintained that its computer software inaccurately calculated the totals.

11. **Recommendation:** It is again recommended that the company resolve all grievances within 30 days of receipt, unless an extension letter is sent notifying

the grievant that the time period for review will be extended an additional 30 days, as required by s. Ins 18.03 (6) (b), Wis. Adm. Code.

12. **Recommendation:** It is again recommended that the company review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 632.83 (2) (c), Wis. Stat., and s. Ins 18.03 (7), Wis. Adm. Code.

Managed Care

The examiners reviewed the company's response to the managed care interrogatory, including its policies and procedures regarding plan administration, quality assurance and improvement, credentialing and recredentialing, enrollee access, continuity of care, compliance program, and patient protection. The examiners found that the company was in compliance with the recommendations made in the prior managed care desk audit report.

The examiners' review of the company's plan administration activities included a review of its organization charts, board of directors meeting minutes, medical director position description, provider directories, and provider agreements. The examiners found that the company's organization charts and its medical director position description indicated that the medical director was responsible for oversight of the clinical protocols, quality assurance activities, and utilization management policies of the plan, as required by s. 609.34, Wis. Stat. The examiners also found that the company's provider agreements did not contain gag clauses as prohibited by s. 609.30, Wis. Stat.

The examiners' review of the company's quality assurance process included a review of the its quality improvement program description, quality assurance plan, and quality assurance program evaluations for 2000 and 2001. It also included a review of minutes from meetings of its quality and utilization management committee (QUM Committee), and the credentialing / peer review committee. The examiners found that the company's quality assurance standards met the requirements set forth in s. 609.32 (1), Wis. Stat.

The examiners' review of the company's credentialing and recredentialing activities included a review of its credentialing and recredentialing policies and procedures, provider agreements, and minutes from meetings of the credentialing / peer review committee. The company's practitioner appeal process fair hearing policy & procedure required that actions with a duration of more than 30 days be reported to the medical examining board.

The company contractually delegated responsibility for credentialing of chiropractors to Chirotech America, Inc. The examiners did not review credentialing procedures for credentialing responsibilities that were contractually delegated to other entities, such as hospitals or Chirotech America, Inc.

The examiners' review of the company's activities regarding enrollee access included a review of its policies and procedures regarding access standards, access program evaluation, and 2000 access to care and services annual report. The examiners found that the company's access standards were sufficient to document compliance with s. Ins 9.34 (2) (a) and (b), Wis. Adm. Code, which require that managed care plans ensure prompt and efficient access to plan providers.

The examiners' review of the company's activities regarding continuity of care included a review of its continuity of care policy and procedure, claim processing policies and procedures, and provider agreements. The examiners found that the company's procedures regarding continuity of care met the requirements of s. 609.24, Wis. Stat., which provides that, if the company represented that a provider was or would be a participating provider in marketing materials, it continue to provide coverage to enrollees for services of the provider for the time periods specified therein.

The examiners' review of the company's activities regarding its compliance program included a review of its compliance plan policy and compliance program. Section Ins 9.42 (2), Wis. Adm. Code, requires that insurers establish and operate a compliance program. The examiners found that the company's compliance program was a draft document.

13. **Recommendation:** It is recommended that the company develop and adopt a compliance program, as required by s. Ins 9.42 (2), Wis. Adm. Code.

The examiners' review of the company's activities regarding patient protection included a review of its provider agreements and policies and procedures regarding referrals, second opinions, and emergency services. The examiners found that the company did not have

a policy and procedure regarding access for underserved populations, as required by s. 609.22 (8), Wis. Stat. The examiners also found that the company's provider agreements did not include a provision requiring that providers provide 24-hour telephone access to plan enrollees. The company indicated that its contracted providers are required to provide 24-hour access to enrollees in order to be credentialed, but initially failed to provide supporting documentation.

14. **Recommendation:** It is recommended that the company develop a policy and procedure regarding access for underserved populations, as required by s. 609.22 (8), Wis. Stat.

Marketing Sales & Advertising

The examiners' review of the company's advertising activities included a review of the company's marketing, sales and advertising interrogatory and advertising file. The examiners found that the company's advertising file contained documentation regarding manner and extent for one television advertisement. However, when the examiners reviewed the videotape included with the advertising file, the examiners found it contained 4 additional advertisements. The company agreed that the additional advertisements should have been listed in the advertising file.

The examiners also found that 1 of the company's advertisements reviewed was not identified by a unique form number. Section Ins 3.27 (26), Wis. Adm. Code, provides that an advertisement which is an invitation to apply or an invitation to inquire and which is mass-produced shall be identified by a unique form number.

The examiners found that the company's advertising file included a Medicare supplement advertisement that was not submitted to OCI for approval. In addition, the advertisement did not contain an attached notice indicating the form number of any policy form advertised, and the file did not include a policy form. Section Ins 3.27 (28), Wis. Adm. Code, provides that a notation shall be attached to each advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. Section Ins 3.39 (15), Wis. Adm. Code, provides that, prior to use, the company shall file with OCI a copy of any advertisement used in connection with the sale of Medicare supplement policies.

15. **Recommendation:** It is recommended that the company submit all Medicare supplement advertisements to OCI for approval prior to use, as required by s. Ins 3.39 (15), Wis. Adm. Code.
16. **Recommendation:** It is recommended that the company include in its advertising file a notice indicating the form number of any policy form advertised and a copy of the policy form advertised, as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policy Forms

A review of the company's policy forms was not within the scope of the examination. However, during the course of the examination, the examiners found that the company was using two policy forms that had not been approved for use by OCI. Section 631.20, Wis. Stat., requires that all forms be filed with and approved by OCI prior to use.

17. **Recommendation:** It is recommended that the company submit to OCI and receive notice of approval of all policy forms prior to use, as required by s. 631.20, Wis. Stat.

Policyholder Service & Complaints

The examiners reviewed the company's policyholder service and complaints interrogatory and its complaint handling policies and procedures.

The examiners reviewed a random sample of 50 of the company's complaint files. The examiners found that 5 of the company's complaint files included documentation that the complaints were filed in writing, either by a letter or an e-mail, and therefore met the definition of "grievance" provided in s. Ins 18.01 (4), Wis. Adm. Code. Section Ins 18.03 (1), Wis. Adm. Code, provides that the company shall investigate each grievance in accordance with the requirements of s. 632.83 (2) (a), Stats.

18. **Recommendation:** It is recommended that the company handle all written complaints as grievances, as required by s. Ins 18.03, Wis. Adm. Code.

Privacy & Confidentiality

The examiners reviewed the company's confidentiality and privacy policy, corporation privacy and confidentiality practices, confidentiality agreement for employees, committee members and consultants, privacy notice, and policy for information systems and technology. The examiners interviewed the company's privacy officer regarding the history and current status of its efforts toward instituting a confidentiality and privacy process.

The examiners found that the company had developed a plan for reviewing its privacy and confidentiality process that involved working groups, company departments, and its board of directors. The examiners also found that the company had instituted its privacy and confidentiality process by drafting and implementing procedures including requiring formal, scheduled training for new and existing employees and requiring that all employees sign a confidentiality agreement. The company's policy identified sanctions in the event of a breach of confidentiality. The company also had developed procedures regarding the use of personal computers, access to personal information in its database, and password protection. The examiners found that the company had sent its privacy notice to all members and employees on July 1, 2001. The examiners also found that the company had drafted a HIPAA brochure that it distributed to all employees. The company stated that 2 outside auditing firms had reviewed its privacy and confidentiality process. The examiners noted that future efforts by the company to offer enrollees access to claims data may be subject to the private financial information requirements included in ch. Ins 25, Wis. Adm. Code. The examiners found that the company had made a significant effort toward meeting the privacy and confidentiality requirements under s. 610.70, Wis. Stat., and ch. Ins 25, Wis. Adm. Code.

Producer Licensing

The examiners reviewed the company's response to the producer licensing interrogatory, including its agency agreements and its policies and procedures regarding producer licensing, terminations, and training.

The examiners found that the company did not have written procedures for reporting complaints and problems pertaining to terminated agents to the Commissioner, to ensure compliance with s. Ins 6.57 (2) (a) (b) and (c), Wis. Adm. Code.

19. **Recommendation:** It is recommended that the company develop and implement written procedures for reporting certain information to the Commissioner regarding terminated agents to ensure compliance with s. Ins 6.57 (2) (a), (b), and (c), Wis. Adm. Code.

The examiners requested from the company a listing of all agents licensed and appointed in Wisconsin at any time during the examination period. The agent licensing data provided by the company was compared to the agent database maintained by OCI. The examiners found that 2 agents were listed as agents in the company's agent database, but were not listed with the company in the OCI agent database.

20. **Recommendation:** It is again recommended that the company revise its procedures and training materials to ensure that agent appointment forms are submitted to OCI in a timely manner, as required by s. 628.11, Wis. Stat.

The examiners reviewed a random sample of 25 active and 25 terminated agent files. The examiners found that 17 of the company's agent files indicated that the company notified the agency of the termination of the agency agreement, but did not send written notice to the individual agent of the agency that the agent was no longer listed with the company and that the agent could no longer act as a company representative. The examiners found that the company could not provide documentation regarding 3 agent files to support that the company sent written notice to the agent that the agent was no longer listed with the company and that the agent could no longer act as its representative. The examiners found 1 agent file where the employee agent left the employment of the company and the company did not provide the agent

with written notice that the agent was no longer listed with the company and that he or she could no longer act as its representative.

The examiners also found that the standard letter used by the company to inform agents of the termination of agent appointment did not advise the agent that the agent could not act as its representative. Section Ins 6.57 (2), Wis. Adm. Code, provides that, prior to or within 15 days of filing a termination notice with OCI, the company shall provide the agent written notice that the agent is no longer to be listed as a representative of the company, that the agent may not act as its representative, and that the agent must return all indicia of agency to the company.

21. **Recommendation:** It is recommended that the company revise its standard agent termination letter, and that prior to or within 15 days of filing a notice of termination with the Office of the Commissioner of Insurance, the company send written notice to the individual agent that he or she is no longer to be listed as a representative of the company and that he or she may not act as its representative in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found 3 files where the company did not retain a copy of the agent listing form (form number OCI 11-001). The company's standard agent appointment procedure provides that a copy of the OCI 11-001 be placed in the agent file.

The examiners found 1 file where the company could not locate a copy of the agent termination form (form number OCI 11-011) in the individual agent file. The company's standard agent termination procedure provided that a copy of the OCI 11-011 be placed in the agent file.

Small Employer Group Marketing

The examiners reviewed the company's response to the small employer interrogatory, including its underwriting requirements and disclosure notices. The company had made periodic changes to its underwriting requirements during the period of review.

The examiners reviewed a random sample of small employer files including 50 small employer enrollee terminations, 50 small employer - issued, and 50 small employer - quotes. The examiners found that the company used a single disclosure form to satisfy the requirements of s. Ins 8.44 (2) Wis. Adm. Code and s. 635.11 Wis. Stat. The disclosure form was provided to the small employer prior to the group application being taken. Section 635.11, Wis. Stat., requires a small employer insurer to provide certain disclosures in writing to small employers before the sale of a policy. Section Ins 8.44 (2), Wis. Adm. Code, requires a small employer insurer to notify each employer in writing when a policy is issued that, if the employer no longer meets the definition of a small employer or if the employer moves his business outside the state, the protections afforded by s. 635, Wis. Stat., will cease to apply. The examiners found that the company did not comply with the requirements of s. Ins 8.44 (2), Wis. Adm. Code, by providing a combined notice to small employers at the time of application.

22. **Recommendation:** It is recommended that the company develop and use two separate notices to satisfy the specific notice requirements provided in s. Ins 8.44, Wis. Adm. Code and s. 635.11, Wis. Stat.

The examiners found that 3 of the company's small employer files did not include waivers, as required by s. Ins 8.65 (2), Wis. Adm. Code, although documentation in the file indicated that there were eligible employees waiving coverage. The examiners also found that 1 of the company's small employer-issued files did not include the appropriate number of waiver forms because the same employer employed a pair of spouses, and one was enrolled as a dependent under the other's certificate of coverage. The company indicated that it did not require in such situations that the spouse waiving coverage sign a waiver form, since all eligible employees were accounted for. Section Ins 8.65 (2), Wis. Adm. Code, provides that a small

employer insurer must secure a waiver signed by the eligible employee on behalf of the employee or the dependent of the employee with respect to each eligible employee, and each dependent of an eligible employee, who declines an offer of coverage.

23. **Recommendation:** It is recommended that the company secure a signed waiver for every eligible employee waiving coverage under a small employer policy, as required by s. Ins 8.65 (2), Wis. Adm. Code.

The examiners found that the company did not have written procedures in place to ensure that it met the minimum notice requirements under s. Ins 8.54 (4) (a), Wis. Adm. Code. Section Ins 8.54 (4) (a), Wis. Adm. Code, requires that, if a small employer insurer intends not to renew a policy or terminate a policy because the number of eligible employees is less than the number required to keep the policy in force, the small employer insurer notify the small employer of its intent not to renew or to terminate at least 20 days before the termination date, and offer to continue the small employer's coverage for not less than 60 days after the nonrenewal or termination date in order to allow the small employer to increase the number of eligible employees to the required number.

24. **Recommendation:** It is recommended that the company develop written procedures regarding small employer terminations to ensure that small employers that fail to meet the minimum participation requirements are given appropriate notice of termination and the opportunity to increase the number of eligible employees to the required number, as required by s. Ins 8.54 (4) (a), Wis. Adm. Code.

The examiners reviewed a random sample of 50 files where the company provided quotes for small employer groups, in order to determine if quotes were given timely and in compliance with s. 635.18, Wis. Stat. Section 635.18 (2) 1, Wis. Stat., provides that a small employer insurer or an intermediary may not, directly or indirectly, discourage a small employer from applying, or direct a small employer not to apply, for coverage with the small employer insurer because of health status, claims experience, industry, occupation or geographic location of the small employer. The turn around time for providing rate quotes for small employer groups can be a potential indicator of noncompliance with this requirement. No exceptions were noted.

Small Employer Rating

The examiners reviewed the company's response to the small employer group marketing interrogatory and its participation requirements, premium rate structure, new business rates, renewal system, and actuarial certifications. The company utilized a commercial software reporting system to generate quotes and renewal premium rates. The company provided summaries of new and renewed groups to document compliance with rate variance restrictions, and summaries of renewed groups to document compliance with rate change restrictions. The company stated that it conducts an annual audit of the data entry of rate and table factors into its rating and processing system.

The company's internal actuarial section filed with OCI its small employer insurer actuarial certifications. The examiners found that the company filed with OCI actuarial certification of its 2000 rating practices and of its 2001 rating practices as required by s. 635.13, Wis. Stat., and s. Ins 8.56, Wis. Adm. Code.

The examiners found that the company had a process for tracking variations from the midpoint from one year to the next so that the variation would not increase by more than 15% per year. The examiners also found that the company had in place processes and procedures to ensure compliance with s. 635.05, Wis. Stat. and s. Ins 8.52, Wis. Adm. Code.

No exceptions were noted.

Underwriting & Rating

The examiners reviewed all of the company's large employer group - issued files for the period under review, 50 groups terminated for nonpayment, 50 declined individual application files, and 50 individual denials.

The examiners found that 1 of the large employer group files documented that the company accepted new business from and paid commissions to an agent who was not licensed to do business in the state of Wisconsin. The examiners also found that 2 of the large employer group files did not contain documentation indicating that coverage was offered to all eligible employees, as required by s. 632.746 (10) (a) 1, Wis. Stat.

25. **Recommendation:** It is recommended that the company cease accepting new business from agents not licensed to do business in Wisconsin, in accordance with s. Ins 6.57 (5), Wis. Adm. Code.
26. **Recommendation:** It is recommended that the company maintain for all large employer groups documentation indicating that all eligible employees were offered coverage to document compliance with s. 632.746 (10) (a) 1, Wis. Stat.

The examiners found that all of the company's declined individual application files included Health Insurance Risk Sharing Plan (HIRSP) notification that identified the incorrect HIRSP administrator and provided inaccurate contact information. The examiners found that the company revised the notification after learning from OCI on August 15, 2001 that the notice was inaccurate, and that it was aware of the need to monitor any future changes in the HIRSP program.

27. **Recommendation:** It is recommended that the company develop procedures for monitoring the HIRSP program to ensure that accurate information is provided to applicants and enrollees, to ensure compliance with s. 632.785, Wis. Stat.

V. CONCLUSION

The examiners found that the company appears to have management and supervisory issues in many functional areas that prevent it from operating in compliance with the Wisconsin insurance laws. In order to work towards compliance, the company must address these issues.

28. **Recommendation:** It is recommended that the company develop a plan for identifying and addressing any management and supervisory issues that prevent it from complying with the Wisconsin insurance laws in order to ensure future compliance.

The prior examination report contained 14 market conduct recommendations in the areas of claims, company operations/management, grievances, marketing, sales, and advertising, producer licensing, provider agreements, and small employer marketing. The company was found to be out of compliance with a total of 8 recommendations from the prior examination report. The company was found to be in compliance with the 3 recommendations made in the prior managed care desk audit report. In addition to the repeat recommendations, 20 new recommendations were written in the areas of company operations/management, claims, e-commerce, grievances, managed care, marketing, sales, and advertising, policy forms, policyholder service and complaints, producer licensing, small employer, and producer licensing.

VI. SUMMARY OF RECOMMENDATIONS

Company Operations/Management

- Page 9 1. It is recommended that the company include in its provider agreements language that requires providers to forward all correspondence regarding any complaint or member dispute to the company in a timely manner, as required by s. Ins 18.03 (2) (c) 1, Wis. Adm. Code.
- Page 10 2. It is recommended that the company revise its provider agreement template, and amend its existing provider agreements to include language requiring providers to promptly respond to grievances and complaints filed with the insurer to facilitate resolution, as required by s. Ins 18.03 (2) (c) 1, Wis. Adm. Code.

Claims

- Page 12 3. It is again recommended that the company pay interest on all claims not resolved within 30 days of receipt by the company or any of its contracted entities, as required by s. 628.46, Wis. Stat.
- Page 12 4. It is recommended that the company institute a procedure to ensure that contracted entities have in place a process for identifying delayed claims and calculating interest due on the delayed claims in order to comply with s. 628.46, Wis. Stat.
- Page 12 5. It is recommended that if, on the basis of an independent evaluation, the company denies a chiropractic claim, it send a denial letter meeting the requirements outlined in s. 632.875 (2), Wis. Stat., to the patient and the treating chiropractor.
- Page 12 6. It is recommended that the company maintain documentation that it does not restrict or terminate coverage for chiropractic treatment on the basis of other than the recommendation of an independent chiropractor, as required by s. 632.87 (3) (b), Wis. Stat.
- Page 13 7. It is recommended that the company maintain all records reasonably related to its claims function for a period of 3 years, including documentation for each claim received indicating the received date, denial reason, and denial date, as required by s. Ins 6.80 (4) (b), Wis. Adm. Code.
- Page 13 8. It is recommended that the company record as the received date in its claims database the date that a claim is first received by the company or any of its contracted entities as documented by a date stamp to ensure compliance with s. 628.46, Wis. Stat.
- Page 14 9. It is recommended that the company send EOBs and RAs on all claims for which the patient is responsible for a portion of the payment, and maintain records of the EOBs and RAs for each claim, as required by ss. Ins 3.651, and Ins 6.80, Wis. Adm. Code.

ElectronicCommerce

- Page 15 10. It is recommended that the company develop and implement a procedure for monitoring agent websites to ensure that all advertisements are included in the company's advertising file, as required by s. Ins 3.27, Wis. Adm. Code.

Grievances

- Page 16 11. It is again recommended that the company resolve all grievances within 30 days of receipt, unless an extension letter is sent notifying the grievant that the time period for review will be extended an additional 30 days, as required by s. Ins 18.03 (6) (b), Wis. Adm. Code.
- Page 17 12. It is again recommended that the company review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 632.83 (2) (c), Wis. Stat., and s. Ins 18.03 (7), Wis. Adm. Code.

Managed Care

- Page 19 13. It is recommended that the company develop and adopt a compliance program, as required by s. Ins 9.42 (2), Wis. Adm. Code.
- Page 20 1416. It is recommended that the company develop a policy and procedure regarding access for undeserved populations, as required by s. 609.22 (8), Wis. Stat.

Marketing Sales & Advertising

- Page 21 15. It is recommended that the company submit all Medicare supplement advertisements to OCI for approval prior to use, as required by s. Ins 3.39 (15), Wis. Adm. Code.
- Page 21 16. It is recommended that the company include in its advertising file a notice indicating the form number of any policy form advertised and a copy of the policy form advertised, as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policy Forms

- Page 23 17. It is recommended that the company submit to OCI and receive notice of approval of all policy forms prior to use, as required by s. 631.20, Wis. Stat.

Policyholder Service & Complaints

- Page 24 18. It is recommended that the company handle all written complaints as grievances, as required by s. Ins 18.03, Wis. Adm. Code.

Producer Licensing

- Page 26 19. It is recommended that the company develop and implement written procedures for reporting certain information to the Commissioner regarding terminated agents to ensure compliance with s. Ins 6.57 (2) (a), (b), and (c), Wis. Adm. Code.
- Page 26 20. It is again recommended that the company revise its procedures and training materials to ensure that agent appointment forms are submitted to OCI in a timely manner, as required by s. 628.11, Wis. Stat.
- Page 27 21. It is recommended that the company revise its standard agent termination letter, prior to or within 15 days of filing a notice of termination with the Office of the Commissioner of Insurance, the company send written notice to the individual agent that he or she is no longer to be listed as a representative of the company and that he or she may not act as its representative in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Small Employer

- Page 28 22.. It is recommended that the company develop and use two separate notices to satisfy the specific notice requirements provided in s. Ins 8.44, Wis. Adm. Code and s. 635.11, Wis. Stat.
- Page 29 23.. It is recommended that the company secure a signed waiver for every eligible employee waiving coverage under a small employer policy, as required by s. Ins 8.65 (2), Wis. Adm. Code.
- Page 29 24. It is recommended that the company develop written procedures regarding small employer terminations to ensure that small employers that fail to meet the minimum participation requirements are given appropriate notice of termination and the opportunity to increase the number of eligible employees to the required number, as required by s. Ins 8.54 (4) (a), Wis. Adm. Code.

Underwriting & Rating

- Page 31 25. It is recommended that the company cease accepting new business from agents not licensed to do business in Wisconsin, in accordance with s. Ins 6.57 (5), Wis. Adm. Code.
- Page 31 26. It is recommended that the company maintain for all large employer groups documentation indicating that all eligible employees were offered coverage to document compliance with s. 632.746 (10) (a) 1, Wis. Stat.
- Page 31 27. It is recommended that the company develop procedures for monitoring the HIRSP program to ensure that accurate information is provided to applicants and enrollees, to ensure compliance with s. 632.785, Wis. Stat.

Conclusion

- Page 32 28. It is recommended that the company develop a plan for identifying and addressing any management and supervisory issues that prevent it from complying with the Wisconsin insurance laws in order to ensure future compliance.

VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

Name	Title
Pamela Ellefson	Senior Insurance Examiner
Jo LeDuc	Senior Insurance Examiner
Linda Low	Insurance Examiner
Marcia Zimmer	Insurance Examiner

Respectfully submitted,

Stephanie Cook
Examiner-in-Charge